

### REMARKS

In the Advisory Action, Claims 1-20 stand rejected. In response, no claims are amended, no claims are cancelled, and no claims are added. Applicants respectfully request reconsideration of pending Claims 1-20 in view of at least the following remarks.

#### **I. Claim Rejections - 35 USC § 102**

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al., U.S. Patent 6,996,677 (herein after referred to as "Lee"). Applicants respectfully traverse this rejection.

Regarding Claims 1 and 15, Claims 1 and 15 recite "saving a return address in a first stack and in a second stack at the same time, the return address containing an instruction to be executed after execution of the called function" as well as "determining if the return address stored in the first stack matches the return address stored in the second stack to provide protection from a buffer overflow attack." These features to provide protection from a buffer overflow attack were conceived in the United States at least as early as October 18, 2002, as evidence by the Invention Disclosure Form and the "LT Stack Protection" document accompanying the Declarations of the inventor under 37 C.F.R. § 1.131, which are submitted to the patent Office in conjunction with this response to the Office Action mailed May 30, 2007.

Applicants respectfully submit that the October 18, 2002 conception date precedes the priority date of Lee of November 25, 2002. Furthermore, as indicated by the attached declaration of the inventor, between at least October 2002 and the constructive reduction to practice of the present invention by filing of the above captioned patent application on August 19, 2003, Applicant directed various meetings with Intel software and hardware design teams in a diligent effort to reduce the invention to practice. As a result of the meetings, the Applicant

revised the LT Stack Protection document to provide Revision 0.2 of the LT Stack Protection document, which is submitted to the Patent Office in conjunction with this response to the Office Action mailed May 30, 2007.

Revision 0.2 of the LT Stack Protection document was reduced to writing internally within the Intel Corporation at least as early as the date on the document; i.e., July 2, 2003. We submit that Revision 0.2 of the LT Stack Protection document provides evidence of diligence between February 2003 and the constructive reduction to practice of the claimed invention of the instant application by the filing of the above captioned patent application on August 19, 2003. As a result, we submit that conception and diligence towards reduction to practice of the invention disclosed and claimed in the above identified patent application occurred prior to the filing of Lee.

In view of the 1.131 Declaration submitted herewith and Revisions 0.1 and 0.2 of the LT Stack Protection document, Lee cannot properly be cited against the pending claims. Accordingly, since Lee cannot be properly cited against the pending claims, Applicants respectfully request the Patent Office withdraw the §102(e) rejection of independent Claims 1 and 15.

Regarding Claims 2-5 and 16, Claims 2-5 and 16 based on their dependency from Claims 1 and 15, respectively, for at least the reasons stated above with respect to Claims 1 and 15 cannot be anticipated by Lee.

Regarding independent Claims 6 and 17, Claims 6 and 17 recite saving a return address in a first stack and in a second stack at the same time, the return address being an address at which program execution is to resume after execution of a called function as well as comparing

the return addresses saved in the first and second stack upon execution of the called function. Claims 7, 8 and 18 depend from Claims 6 and 17, respectively.

Independent Claims 6 and 17 are also supported by the conception date of October 18, 2002 as evidenced by the declaration of the inventor under 37 C.F.R. § 1.131, submitted herewith. Accordingly, similar to independent Claims 1 and 15, Lee cannot be properly cited against independent Claims 6 and 17. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of Claims 6-8 and 17-18 under 35 U.S.C. § 102(e) as anticipated by Lee.

Regarding independent Claims 9 and 19, independent Claims 9 and 19 recite passing control of the program to an exception handler if the return address stored in the first stack does not match the return address stored in the second stack upon execution of the called function to provide protection from a buffer overflow attack. Claims 18 and 20 depend from Claims 9 and 19, respectively. These claims are entitled to the date of conception of October 18, 2002 as supported by the declaration filed by the inventor under 37 C.F.R. § 1.131, as provided herewith.

Therefore, Lee cannot be properly cited against Claims 9-10 and 19-20. Consequently, since Lee cannot be properly cited against Claims 9-10 and 19-20, Applicants respectfully request that the Patent Office withdraw the rejection of Claims 9-10 and 19-20 under 35 U.S.C. § 102(e) as anticipated by Lee.

Regarding Claims 11 and 13, Claims 11 and 13 recite buffer overflow control logic to determine if the return address retrieved from the first memory locations matches the return address retrieved from the second memory locations, upon execution of the called function to provide protection from a buffer overflow attack. Claims 12-14 depend from Claims 11 and 13, respectively.

Applicants respectfully submit that Claims 11 and 13, as well as dependent Claims 12 and 14 are entitled to the October 18, 2002 conception date as supported by the declaration filed by the inventor under 37 C.F.R. § 1.131.

Hence, for at least the reasons indicated above, Lee cannot be properly cited against Claims 11-12 and 13-14. Accordingly, Applicants respectfully request the Patent Office withdraw the rejection of Claims 11-12 and 13-14 under 35 U.S.C. §102 as anticipated by Lee.

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CONCLUSION

In view of the foregoing, it is believed that all claims now pending (1) are in proper form, (2) are neither obvious nor anticipated by the relied upon art of record, and (3) are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

Per 37 C.F.R. 1.136(a) and in connection with the Advisory Action mailed on September 18, 2007 Applicant respectfully petitions Commissioner for a one (1) month extension of time, extending the period for response to October 30, 2007. The Commissioner is authorized to charge Deposit Account No. 02-2666 in the amount of \$120.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(1) large entity. A duplicate copy of the fee transmittal is enclosed.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,  
BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: 10/1/07

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## CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted by facsimile on the date shown below to the United States Patent and Trademark Office.

  
Elaine Kwak10/1/07  
Date